

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-20162-3

BARRON HILL,

Defendant.

**OPINION AND ORDER DECLINING TO ISSUE A MODIFICATION
OF SENTENCE PURSUANT TO 18 U.S.C. § 3582(c)(2) AND TERMINATING AS
MOOT DEFENDANT'S MOTION FOR THE APPOINTMENT OF COUNSEL**

The matter is before the court on a determination for a possible reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2). The court appointed the Federal Defender's Office "to determine eligibility, confer with the Probation Department and the U.S. Attorney's Office, and gather the pertinent information to assist the court in expeditiously resolving any pending or intended 18 U.S.C. § 3582(c) motions." (12/26/11 Order, Dkt. # 72.) After reviewing the record and conferring with the Government, Defendant's counsel filed a "Notice Regarding Eligibility for a Reduced Sentence Under Crack Guideline Amendments," indicating Defendant's ineligibility for a modification because the amendment to the crack cocaine guidelines does not lower Defendant's guideline range. (Notice Regarding Eligibility 1-2, Dkt. # 79.) The court has reviewed the record and counsel's notice and concludes that Defendant is ineligible for modification. Having been sentenced pursuant to the 2010 Federal Sentencing Guidelines Manual, Defendant has already received the benefit of the most recent crack

cocaine amendments. Additionally, due to Defendant's career offender status, he is ineligible for modification. See *United States v. Perdue*, 572 F.3d 288, 292 (6th Cir. 2009) (citing *United States v. Mateo*, 560 F.3d 152, 155 (3d Cir. 2009) (holding that a district court may not grant a motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) where the defendant was originally sentenced as a career offender)). Accordingly,

IT IS ORDERED that the court DECLINES to modify Defendant's sentence pursuant to 18 U.S.C. § 3582(c), and the matter is deemed closed.

IT IS FURTHER ORDERED that Defendant's letter requesting the appointment of counsel [Dkt. # 71], docketed as a motion, is TERMINATED AS MOOT.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 28, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 28, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522